

Filing Instructions for Variances and Special Permits



**Town of Dedham
Zoning Board of Appeals
450 Washington Street
Dedham, MA 02026-4458
781-751-9240**

INTRODUCTION

Massachusetts General Law Chapter 40A, s.14 and the Dedham Zoning Bylaws provide that the Town of Dedham Zoning Board of Appeals shall have the authority to hear and decide petitions for Special Permits, Variances, Appeals, Repetitive Petitions, and Comprehensive Permits (40B). The rules and regulations of the Zoning Board of Appeals are in accordance with Massachusetts General Law Chapter 40A. Applicants must also comply with any and all other requirements and procedures set forth in the Town of Dedham Zoning Bylaw.

Please refer to the attached information and instructions when completing this application. Applicants are advised to check with the Building Commissioner/Zoning Officer for interpretations of the Zoning Bylaws relative to your case prior to filing with the Board of Appeals.

MEETINGS

REGULAR MEETINGS

The Town of Dedham Zoning Board of Appeals (ZBA) meets at 7:00 p.m. on the third Wednesday of each month. All regular meetings are posted in Town Hall across from the Town Clerk's office, outside the rear door of the Town Hall, and outside the Planning and Zoning office. In addition, each meeting is posted on the Town of Dedham website (www.dedham-ma.gov). These meetings are held in person at 450 Washington Street, and someone representing your application should be present.

SPECIAL MEETINGS

Special meetings may be called by the Chair or at the request of two members. These are posted as noted above. Board Members and/or administrative staff may conduct a site visit to a subject property, including public access to the property.

SITE VISITS

Members and/or administrative staff may conduct a site visit to a subject property, including public access to the property. Site visits do not conflict with the Open Meeting Law (MGL Chapter 39, Sections 23A-23C). The petitioner should allow such inspection.

OPEN MEETING LAW

All meetings of the Zoning Board of Appeals are subject to and must comply with the Open Meeting Law as noted above.

APPLICATION SUBMISSION

1. A property owner, agent, or prospective buyer who submits certification of property interest and authority may file an application for a Special Permit, Variance, and/or Appeal. The property owner of record must sign the official Board of Appeals application form. An application submitted without the signature of the property owner will be returned for completion and re-filing, and the date of re-filing is the official date of the application. Failure to meet these requirements may constitute grounds for rejection of an application for review.

2. The Applicant is responsible for providing the application, as well as a written petition statement that clearly and concisely explains the proposed project, using supplemental materials (maps, photographs of the area, and any other documentation) to explain the project.
3. The Applicant is responsible for completing the application in full, including citing the section of the Zoning Bylaw to which the petition pertains. The application should be reviewed by the Building Department prior to submission to ensure completeness.
4. The submission must include eight (8) hard copies of the application, petition statement, plans, exhibits, renderings, or any other attachments, and one (1) digital copy of all materials. Submission should be made to the Planning/Zoning Administrative Assistant. The electronic copy (pdf) of the entire submission should be e-mailed to the Planning/Zoning office at jrosenberger@dedham-ma.gov.
5. Applications for hearings are available on the Town website at www.dedham-ma.gov, in Planning and Zoning office, or by contacting the Zoning Board of Appeals Administrator at 781-751-9242.

Note: All instructions and worksheets are supplied for informational purposes only, and are not intended to replace sound legal advice. All legal questions should be directed to your legal counsel.

APPLICATION REQUIREMENTS

1. **Application for Hearing:** The applicant must fill in all information and be present and able to present the application to the Zoning Board of Appeals.
2. **Certified Plot Plan:** The certified plot plan should contain:
 - Property address, map and lot number, zoning district, and overlay districts
 - Location of lot lines, dimensions of lot, and frontage
 - Established zoning setback requirements
 - Locations and dimensions of primary and accessory structures
 - Proximity to wetlands
 - Locations of water lines, septic locations, public easements, and public utilities
 - **All proposed changes must be shown in RED on the plot plan**
3. **Building Plans:** The building plans should be on either a legal size paper or an 11" x 17" sheet, and should contain:
 - Existing exterior elevations to include front, rear, and side elevations
 - Proposed exterior elevations to include front, rear, and side elevations

- Location of windows and doors
 - Exterior stair locations and dimensions
 - Interior floor plans, if applicable
 - Average height of the building, both existing and proposed.
4. **Eight (8) hard copies of the official application form and one (1) electronic copy of all plans, exhibits, and any other information and/or attachments to the petition**
 5. **Photographs:** Photographs of existing conditions must be included with the submittal.
 6. A petition form is included in the application as a courtesy to the Applicant. It is highly recommended that the Applicant visit abutters to explain the proposal and, if possible, obtain their signature in support. This is a suggestion, not a requirement.

FEES

APPLICATION FEE

Application fees are due and payable at the time of filing of the application. Failure to do so will result in rejection of the application. Payment may be made by personal check, bank check, or money order. Credit cards are not accepted.

Residential: \$50.00

Commercial: \$175.00

REVIEW FEE

In very rare cases, it is necessary for the Board to hire consultants in connection with the review and evaluation of an application. The Applicant is required to pay the costs incurred by the Board for this. Consultants will bill the Applicant separately for any review.

LEGAL ADVERTISEMENT FEE

Each Zoning Board of Appeals petition requires a public hearing. According to Massachusetts General Law Section 11:

“In all cases where notice of a public hearing is required notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing...”

In order to comply with this section, the Town of Dedham places legal ads for all public hearings in *The Dedham Times*, which bills the Applicant separately. A form is included in the application that requests publication of the legal notice for the hearing. Only one copy is needed in the submission.

Fees are established by *The Dedham Times*, not the Town of Dedham. Payment for these ads is the responsibility of the Applicant. For information on billing, please contact *The Dedham Times* at 781-329-5333 or by e-mail at dtimes@rcn.com.

NOTIFICATIONS

Massachusetts General Law Chapter 40A, Section 11, requires notification of the hearing to parties in interest. A list must be created and certified by the Town of Dedham Assessor's office. Parties in interest are defined in as:

- Applicant
- Abutters: Owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property lines of the subject property as they appear on the most recent applicable tax list. This includes applicable abutters in other towns.
- Planning Boards of abutting communities (Boston, Needham, Canton, and Westwood).

CERTIFIED ABUTTER LIST

A form is included in the application to obtain a certified abutter list from the Town of Dedham Assessor's office. Only one copy is needed in the submission.

Postcards of the legal notice of hearing are created and mailed to the parties in interest based on the Assessor's certified abutter list. In cases where the property of an abutter has been sold within the past year, the new owner is not on the certified abutter list because the Registry of Deeds has not forwarded that information to the Assessors' office. If a postcard is returned to the Zoning Board of Appeals office, every attempt is made to determine who the new owner is so that the postcard may be sent to that person.

PUBLIC HEARINGS

All Public Hearings are recorded by the Administrative Assistant, from which she transcribes minutes and decisions are written. All minutes and decisions are posted on the Town website.

PRESENTATION OF PETITION

Each hearing is given a time on the agenda. Not all hearings are called at the scheduled time. Some hearings require that the Board hear further testimony, which may cause that hearing to run late. Every attempt is made to hear petitions at the time they are scheduled.

After the presents the petition, the hearing is opened to the Board for questions. After that, the hearing is open to public comment. Once all the testimony is heard, the Board will determine whether a vote is the will of the Board.

VOTE

In most cases, a motion is made, seconded, and voted upon to either approve or deny a petition. This concludes the hearing. In some cases, it is decided that there more information is required, and the hearing is continued to the next meeting.

The affirmative vote of four (4) members of the five (5) member Board shall be required to authorize, issue, uphold, or reverse a Special Permit/Variance/Appeal. In the event that there are only three members present, the Applicant is given the opportunity to continue the hearing until there are sufficient members, or choose to abide by the unanimous vote of all three members.

AFTER THE HEARING

The Administrative Assistant transcribes minutes of each hearing, from which legal decisions are written. Each member of the Board must approve the written decision before it is filed with the Town Clerk. Once filed with the Town Clerk, the appeal period begins. The Applicant is asked to allow the office sufficient time to complete this procedure. We request that he/she not call or come to the office looking for a decision.

DECISIONS

Variances:

According to MGL Chapter 40A, Section 15:

“The decision of the board shall be made within one hundred (100) days after the date of the filing of an appeal, application or petition, except in regard to special permits, as provided for in section nine.”

Special Permits:

According to MGL Chapter 40A, Section 9:

“The decision of the special permit granting authority shall be made within ninety (90) days following the date of such public hearing.”

The required time limits for a decision on a variance or a Special Permit may be extended by a vote of the Board, and must be filed in the office of the Town Clerk.

PLEASE NOTE: Every attempt is made to issue decisions as quickly as possible after a hearing. The Applicant should keep in mind that the Board is allowed the above amount of time to complete the process, and is asked to allow the office sufficient time for this. We request that he/she not call or come to the office looking for a decision. A copy will be sent to the Applicant once it has been signed and filed with the Town Clerk's office.

NOTIFICATION OF DECISION

A copy of the filed decision will be mailed to the Applicant. A postcard notice of the filed decision will be mailed to the parties in interest, abutting towns, and to persons at the Public Hearing who request such a notice. Copies of the decision will also be sent as necessary to the Planning Board, Building Commissioner, Assessor's Office, Board of Health, and any other Board or Department involved in the original petition. The notices will specify that, pursuant to MGL Chapter 40A, Section 27 Judicial Review, appeals, if any, should be filed within twenty (20) days after the date the decision was filed with the office of the Town Clerk.

APPEALS

Any person aggrieved by the decision of the Board may appeal such decision pursuant to MGL Chapter 40A, Section 27 Judicial Review. Appeals, if any, should be filed within twenty (20) days after the date the decision was filed with the office of the Town Clerk.

APPEAL PERIOD

The appeal period, in which anyone may appeal the Zoning Board of Appeals decision, starts the day after the decision is filed with the Town Clerk, and goes for 20 days.

RECORDING THE DECISION AND OBTAINING PERMITS

The Applicant should obtain a letter from the Town Clerk certifying that the twenty (20) day appeal period has expired. This can be obtained the day after the appeal period ends. The decision must then be filed with the Norfolk County Registry of Deeds. Evidence of this filing must be provided to the Town Clerk, Board of Appeals, and Building Department. The Applicant is responsible for obtaining all necessary permits, licenses, rights and/or releases prior to commencement of the project.

WITHDRAWAL OF APPLICATION

An Applicant may withdraw an application, without prejudice, by written notice to the Board and the Town Clerk at any time prior to the first publication of the legal notice of the Public Hearing in the newspaper. If such a request is made prior to publication of the first legal notice of hearing, the filing fee is refunded.

I have read and understand the above information.

Signature of Applicant

Date